IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No. 4026 of 2005

Date of decision: 24-4-2007

Jagdish Chander Malhotra Vs. The State of Haryana

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

HON'BLE MR. JUSTICE AJAI LAMBA

Present: Shri Shailendra Jain, Advocate, for the petitioner.

Shri H.S.Hooda, Advocate General Haryana assisted by Sarvshri R.S.Kundu and Ashish Kapoor, Addl. A.G. Haryana.

Shri A.K.Pathania, Advocate, for HSIDC

K.S.GAREWAL,J.

Learned counsel argued at length that the Sub Committee had acted arbitrarily and the High Powered Committee had failed to consider his case.

Learned Advocate General replied that the High Powered Committee had given its decision on the basis of guidelines and site inspection. The Committee had recommended acquisition of only those properties which fell on the road or green belt.

There appears to be a basic flaw in the petitioner's case because the petitioner's property has not been acquired at all under the notification dated November 15, 2002. The petitioner states that he is owner of 13999.02 sq. yards comprised in Khasra Nos. 29//24/2, 25/2/1, 30//4/1, 5/1, 5/2, 6/1/1, 6/1/2 situated in the revenue estate of Begampur Khatola which he had purchased through various sale deeds but close examination of the notification under Section 4 shows that the khasra numbers of the petitioner's property have not been included in the said notification. Inspite of this the petitioner went ahead and filed objections under Section 5-A of the Land Acquisition Act. Thereafter in the declaration under Section 6 as well the petitioner's property was not included.

We are really surprised why the petitioner chose to file this

petition. The petitioner has referred to a letter from Director of Industries dated August 14, 2004 Annexure P-9 conveying the Sub Committee's recommendations that the petitioner's case was not fit for grant of exemption because if exemption is granted it would disturb the plan and continuity of the project.

The relief claim by the petitioner is basically against letter Annexure P-9 and report Annexure P-10.

The petitioner has tried to challenge Annexure P-9 and P-10 on the ground of arbitrariness and lack of proper consideration whereas he ought to have categorically and specifically stated that his property had not been acquired, therefore, the decisions of the Sub-Committee and the High Powered Committee were neither here nor there. But the petitioner filed the writ petiton, by pleading that Annexure P-9 and P-10 ought to be quashed because his property was released when the declaration under Section 6 of the Act was issued.

The fact of the matter is that the petitioner's property was not even acquired under the Section 4 notification, so where was the question of its release under the Section 6 declaration.

No cause of action ever arose to the petitioner.

Dismissed.

(K.S.GAREWAL)
JUDGE

(AJAI LAMBA)
JUDGE

April 24, 2007
RSK